1957. File No. Misc Suits (Dharwar)

Examined Legal DEPARTMENT 57

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Miscellaneous suit matters from Dharwar District.

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Miscellaneous suit matters

from Dharwar District.

Insolvency Application 1 of 1951.

R. Y. Kavalikai -- Applicant.

Insolvency Application 1 of 1951.

In the Court of the Civil Judge, Senior Division,
Dharwar. At Dharwar.

Applicant :- Ramappa Yellappa Kavalikai.

Chronological Statement of Facts.

Shri Ramappa Yellappa Kavalikai one of the partners in the firm carrying on grocery business known as M/S Nurullasaheb Dambal and Rachappa Kavalikai at Namjoshi road, Gadag, which is dissolved on 23-3-1951, has filed an insolvency application (Insolvency application No.1 of 1951) in the Court of the Civil Judge, Senior Division, Dharwar, on 23-6-1951. In the meanwhile one of the creditors of the said firm M/S K.Umakant filed a suit against the applicant Rachappa Kavalikai and the heirs of the said Nurullasaheb in Civil Suit No. 163 of 1951 in the Court of the Bombay City Civil Court on 21-3-1951 for khis dues and got attached all the moveables of the said shop and the immoveablex properties of the deceased Nurullasaheb, through Gadag Court.

The names of the heirs of the deceased Nurulla are

1.	Abdulrahimansab,	age 17	Sons.
2.	Mahammadsharif,	" 3	
3.	Mumtaz, Begambi,	" 8	Daughter.
4.	Mussabbi,	" 35	Widow.

The applicant has enclosed two lists of his debtors and creditors to his application filed in Court on 23-6-1951. Schedule A is a list of debtors who owe Rs.36,057-11-0 to the said shop and Schedule B is the list of creditors to whom the shop is liable for payment to the extent of Rs.61,015-7-0. The applicant

states in his application that he has no property either movezble or immoveable. The moveable property of the shop was already attached in Civil Suit No.163 of 1951 of the Bombay City Civil Court. However he admits that he is in possession of the account books of the shop.

The said firm was registered under the Bombay Sales Tax Act, 1946 and was holding registration certificate No.VII-137. The firm was assessed to tax with penalty for Rs.1444-14-0 for the period from 1-4-1949 to 23-3-1951.

I have appeared for the Sales Tax Officer, Gadag, on 28-8-1951 in the aforesaid proceeding and took time to submit written objections on his behalf. The case is now fixed for objections on 3-10-1951.

Draft written statement.

1. The application is not true and bonafide.

2. The applicant is liable to pay the amount of Rs. 1444-14-0 on account of Sales Tax for the period from 1-4-1949 to 23-3-1951.

3. The debts due to the firm as shown in Schedule A is primarily liable for payment of the Government dues of Rs.1444-14-0.

4. The Government dues of this amount of Rs.1444-14-0 is wholly recoverable under section 61(1) of the Provincial Insolvency Act, 1920, in preference to all other debts in the distribution of the property of the insolvent.

5. The said dues shall also be recoverable as an arrear of land revenue under clause (5) of Section 12 of the Bombay Sales Tax Act, 1946.

For these among other grounds the claim of the Sales Tax of Rs.1444-14-0 be allowed to be fully recovered with costs of this apponent.

No 479 of 1955.
Office of the District Govt Pleader
Dharwar dated 25th May 1955.

TO.

The Remembrancer of Legal Affairs
Bombay.

Subject:- Papers in Civil Proceedings, of Dharwar
Civil Judge's Court (Sr Dn) Dharwar.

Sir,

The papers in the following suits have not been sent back by you after approving the written statements put in the suits. The suits are now fixed for issues on 21st June and 27th June. Already two adjournments have been taken for issues on the ground that the papers have not yet been received from ~~the~~ your Office. The Courts, Ofcourse, will not grant any further adjournments for issues and the production of necessary documents at a further stage may not be permitted as so many extentions of times have already been granted. I, therefore, request that you will kindly send the papers without delay.

	Date fixed.
1. L.C. 41 of 1954.	21st June 1955.
2. L.C. 152 of 1954.	27th June 1955.
3. L.C. 153 of 1954	

The following matters are also pending in your office for a long time for getting sanction of the defence of suits.

~~1~~ You are requested to have the matters sent as early as possible as the Courts are very reluctant in grating adjournments.

1. L.C. 206 of 1954,	11th June 1955.
2. L.C. 217 " 1954.	9th June 1955.
3. L.C. 195 " 1954.	
4. L.C. 197 " 1954.	16th June 1955.

Yours faithfully.
B.a. Mahishi
Assistant Govt Pleader.

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Submitted.

Pl. see DGP Dharwad's letter overleaf

As regards 'A' the DGP has already filed the written statements. The pps may be forwarded to him as the cases are for production of documents on the 21st & 27th June respectively.

As regards 'B' the cases are pending with Smt Anandan.

For orders

T.S.
3/6

Sol-(ML) Nori Choksi

Submitted 3.6.

As per instructions papers of T.S Nos 41, 152 & 153 of 1954 are sent to the D.G.P. Papers of T.S No 217 of 1964 are also sent to the D.G.P with a request to file the WS on due date. T.S. No. 206 of 1950 147 of 1964 will be taken up for hearing.

Dhl 3/6/55 Sol(ML) 3.6.

Submitted

File in Misc Suits Dharwad

3/6 Sd/- Miss Suits Dhar 7/6/55